



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE PETITION OF APPLIED)
WASTEWATER MANAGEMENT INC., FOR)
APPROVAL OF A MUNICIPAL CONSENT)
GRANTED BY THE TOWNSHIP OF MOUNT) **ORDER**
OLIVE, MORRIS COUNTY; AND EXTENSION OF)
ITS EXISTING WASTEWATER TARIFF TO THE)
NEW SERVICE AREA)

DOCKET NO. WE08121078

(SERVICE LIST ATTACHED)

BY THE BOARD:

Applied Wastewater Management, Inc. ("AWWM" or "Company") currently provides water and/or wastewater service to approximately 4,100 customers in communities located in Bergen, Warren, Hunterdon, Morris, Burlington, Monmouth, Cape May, and Somerset Counties, New Jersey. AWWM is a subsidiary of American Water Works Company, a large investor-owned water and wastewater corporation providing regulated and unregulated utility services nationwide.

On August 19, 2008, the Township of Mount Olive governing body adopted Ordinance No.43-2008, which granted AWWM authority to own, operate and maintain a central wastewater collection, treatment and disposal system in a portion of the Township known as Morris Chase. On December 12, 2008, Applied Wastewater Management, Inc. filed a petition with the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, for approval of this municipal consent granted by the Township of Mount Olive. In its petition, the Company also requests the Board's approval to apply the Company's existing wastewater tariff to the new service area.

On May 12, 2009, a duly noticed public hearing on the Company's petition was held at the Board's Newark office. Legal Specialist, Joseph Quirolo, Esq., presided over the hearing at which representatives of the Company, the Department of Public Advocate, Division of Rate Counsel ("Rate Counsel") and Board Staff appeared.

The municipal consent authorizes AWWM to provide wastewater services to Morris Chase, a residential development located within Block 4400, Lot 79, on the Township tax map ("Morris Chase" or "Development"). The Development is a residential community proposed to consist of 276 residential dwellings and a recreational facility. The exact make-up of the 276 unit development will consist of 105 single family homes, 93 Town Homes having 3 bedrooms, and 78 Town Homes with 2 bedrooms. Presently, the Development is in the early stages of construction with only a model single family home and three multifamily dwellings completed. None of the structures are occupied. The infrastructure of the Development is mostly in place with roads and the underground sewer, water, and storm water facilities. Active marketing of the Development is expected to commence shortly.

The wastewater system will be located within Morris Chase, a strictly residential community consisting of 276 dwelling units and a recreational facility. The wastewater system will operate under the control of AWWM within its Northern Region as a stand-alone system that will collect and treat sewerage generated within the Development. The system has sufficient capacity to meet the needs of the Development having been designed to serve a development in excess of the planned 276 units. The plant has a firm capacity of 81,000 gallons per day. There will be no impact on the Company's ability to provide safe, adequate and reliable service to the other areas served by the Northern Region. The new customers will have customer assistance through the Northern Region office, including a 24 hour emergency line.

The Company proposes to charge rates for service pursuant to its existing May 21, 2009, Board approved residential wastewater tariff. Service will not be metered but will instead be provided as part of AWWM's approved Community On-Site Water and Wastewater System ("COWS") tariff which is billed on a flat-rate per residential connection that applies a differential rate based on property size.

The Company currently owns and operates water and wastewater systems in Mount Olive in a community known as Country Oaks, which is located less than a mile from the proposed service area. The Country Oaks wastewater system will not be interconnected with the proposed Morris Chase system because of geographic and groundwater discharge limits. In addition, two other wastewater systems contiguous to Mount Olive but not owned by AWWM lack sufficient capacity to serve the Development.

The proposed franchise area is located in Planning Area 5 – Environmentally Sensitive Planning Area or more specifically, within the Special State Planning Area - Highlands Planning Area. The Highlands Planning Area is that portion of the Highlands Region that is not included within the Highlands Preservation Area. Pursuant to the purchase agreement for the system executed between the developer, Toll Brothers, Inc. ("Developer"), and AWWM, AWWM will make installment payments to the developer as each customer is connected to wastewater system and begins receiving service. The purchase agreement between the Developer and AWWM was executed on January 21, 2005.

The proposed project is located within an area not designated for growth pursuant to N.J.A.C. 14:3-8.2. According to the Board's Main Extension regulations, N.J.A.C. 14:3-8.1 et seq., a regulated utility is generally precluded from paying for or financially supporting a main extension into an area not designated for growth as defined in N.J.A.C. 14:3-8.5(a). There are exceptions to the general proscription against such financial support as mentioned in N.J.A.C. 14:3-8.6. The Company asserts that it is permitted to pay for or financially support the proposed extension because of the exemption to the general bar to such support provided in N.J.A.C. 14:3-8.8, specifically, N.J.A.C. 14:3-8.8(a)(4) which exempts projects that are already in progress as of

March 20, 2005 and section "(g)" of the rule that states, "if construction of an extension, or the installation of any temporary service, has begun prior to March 20, 2005, or *if a regulated entity has committed in writing to pay a specific dollar amount for an extension, prior to March 20, 2005*, the extension shall be exempt. (Emphasis supplied). The Company contends that its execution of the purchase agreement for the wastewater system with Toll Bros., Inc. on January 21, 2005, places the matter at issue squarely within the exemption contemplated by N.J.A.C. 14:3-8.8(g). An exemption pursuant to N.J.A.C. 14:3-8.8(a)(4) does not generally require prior written approval of the Board.

By letter dated May 29, 2009, Rate Counsel submitted its comments to the petition and is not opposed to its approval. Rate Counsel recommends that any approval not include authorization to include in rate base the specific assets that will be acquired as a result of the petition since the inclusion into rate base of any asset and any associated ratemaking determination must be addressed in a future base rate proceeding. Rate Counsel further recommended the inclusion of specific language in any Board Order approving the petition, which is incorporated in this order.

AWWM provides potable water and wastewater service to customers in various communities located in eight counties throughout the State. Its employees are well qualified and possess the expertise to operate and maintain these systems and facilities so as to provide safe, adequate and proper service. This same level of service will be provided to the new service area. As a subsidiary of American Water Works, the Company has the financial stability and access to a wealth of utility related expertise and capital should the need arise.

Therefore, the Board **HEREBY FINDS** that the extension requested is necessary and proper for the public convenience and properly conserves the public interests, and **HEREBY APPROVES** the Township of Mount Olive Ordinance 43-2008 adopted on August 19, 2008, for the provision of wastewater service in the Township of Mount Olive on Block 4400, Lots 79, of the Mount Olive tax map as sought in the Company's petition.

The Board **FURTHER APPROVES** the use of the existing Board approved differential flat-rate tariff of Applied Wastewater Management for service to be provided to the Morris Chase development. AWWM's current rates on file at the Board for the proposed franchise provide for a quarterly flat rate ranging from \$284.40 to \$285.75.

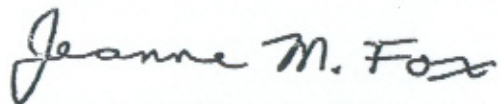
The approvals granted, hereinabove, shall be subject to the following provisions:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by Applied Wastewater Management, Inc.
2. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting Applied Wastewater Management, Inc.
3. In an appropriate subsequent proceeding, the Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers. Approval of this municipal consent does not include authorization to include in rate base the specific assets that are or will be completed as a result of the new service territory.

4. Approval of this municipal consent ordinance does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such cost and expenses, shall be made in an appropriate subsequent proceeding.

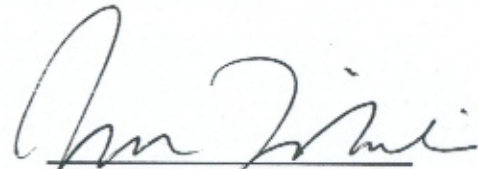
DATED: 7/29/09

BOARD OF PUBLIC UTILITIES
BY:



JEANNE M. FOX
PRESIDENT

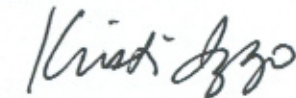

FREDERICK F. BUTLER
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JOSEPH L. FIORDALISO
COMMISSIONER

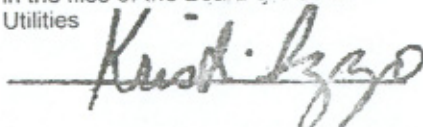

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



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OLIVE, MORRIS COUNTY; AND EXTENSION OF ITS EXISTING WASTEWATER TARIFF TO
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BPU Docket No. WE08121078

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